Phillip E. Harter
Probate Judge

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Cindy K. Rude Probate Register

March 30, 2006

Michigan Supreme Court 925 W. Ottawa PO Box 30048 Lansing, MI 48909

Re:

ADM File No. 2005-12

Gentlemen:

I am writing concerning the proposed amendment of Rules 5.102(C). I am not sure what is being attempted in amending this rule. However, I would like to point out a couple of problems which I see with the proposed amendment. Apparently the proposed amendment would allow service on a minor 14 years or older by serving either that individual or a parent of that individual. First, our statutes and court rules recognize that once an individual reaches the age of fourteen, that individual should be entitled to notice in their own right of matters which directly effect them. This rule would deny such 14 year old's notice by allowing for alternative service upon the parent. I believe this to be inadequate. Second, the rule simply allows for service on a parent, which would conflict with MCR 5.105(D)(4), which requires that only a parent without a conflict of interest and who file an appearance may be served on behalf of a minor. This requirement was added to our rules relatively recently and I do not believe it would be wise to either ignore it or supercede it. Third, personal service should not be required on the parents. As with other interested persons, I believe service by mail would be sufficient and save expense and time.

Sincerely.

PHILLIP E. HARTER

Judge of Probate